

United States Bankruptcy Court  
Eastern District of CaliforniaEsplanade Enterprises, Inc.,  
Plaintiff

Adv. Proc. No. 15-02002-B

HORNE,  
Defendant**CERTIFICATE OF NOTICE**

District/off: 0972-2

User: cjm  
Form ID: pdf021Page 1 of 1  
Total Noticed: 4

Date Rcvd: May 18, 2016

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 20, 2016.

aty	+Mark Gorton,	555 Capitol Mall Suite 1500,	Sacramento, CA 95814-4603
aty	+Raymond L. Sandelman,	196 Cohasset Road, Suite 225,	Chico, CA 95926-2280
aty	+Thomas G. Mouzes,	555 Capitol Mall Suite 1500,	Sacramento, CA 95814-4603
def	+STEVEN J. HORNE,	P. O. Box 195,	Chico, CA 95927-0195

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
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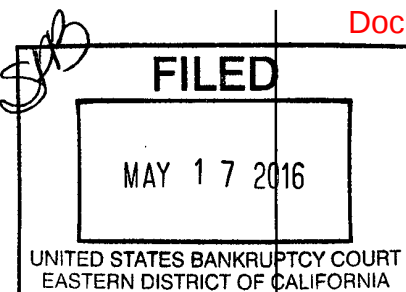
**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.****Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: May 20, 2016

Signature: /s/Joseph Speetjens

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**CM/ECF NOTICE OF ELECTRONIC FILING**The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 18, 2016 at the address(es) listed below:  
NONE. TOTAL: 0



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re:	)	Case No. 14-30124-B-7
STEVEN J. HORNE,	)	Adversary No. 15-2002
	)	
Debtor(s).	)	
<hr/>		
ESPLANADE ENTERPRISES, INC.,	)	
and JOSEPH MICELI,	)	
	)	
Plaintiff(s),	)	
v.	)	
STEVEN J. HORNE,	)	
	)	
Defendant(s).	)	

ORDER GRANTING IN PART AND DENYING IN PART  
MOTION FOR AN AWARD OF COSTS

Plaintiffs Esplanade Enterprises, Inc., and Joseph Miceli, as the prevailing parties in the above-captioned adversary proceeding, request costs in the amount of \$3,316.20, plus an additional \$135.04 for statutory witness fees and mileage. Plaintiffs' request is governed by Federal Rule of Bankruptcy Procedure 7054(b)(1) and Local Bankruptcy Rule 1001-1(c), which incorporates Local District Court Rule 292. LDCR 292, in turn, permits taxation of costs consistent with 28 U.S.C. § 1920, and other applicable statutes.

Defendant Steven J. Horne has not opposed plaintiffs' request for taxation of costs. However, costs are not awarded as

1 a matter of course and they remain subject to the court's  
2 discretion. See In re Jodoin, 196 B.R. 845, 856 (Bankr. E.D.  
3 Cal. 1996), aff'd, 209 B.R. 132 (9th Cir. BAP 1997). The party  
4 seeking costs must produce evidence properly documenting and  
5 establishing the costs incurred. Fogleman v. ARAMCO, 920 F.2d  
6 278, 285-86 (5th Cir. 1991); State of Arizona v. Maricopa Co.  
7 Med. Soc., 578 F. Supp. 1262, 1264 (D. Ariz. 1984) (citations  
8 omitted) (stating that more than a conclusory application  
9 required and application must include detailed supporting  
10 documentation).

11 For the reasons explained below, plaintiffs' request for  
12 costs will be granted in part and denied in part.

13 Plaintiffs request \$785.00 for fees of the court. See 28  
14 U.S.C. § 1920(1); LDCR 292(f)(1). These fees are not documented  
15 or itemized. However, the court will take judicial notice that  
16 the fee for filing an adversary complaint is \$350.00. And  
17 according to the docket, this is the only fee charged in this  
18 adversary proceeding. So as to the "Fees of the clerk" cost -  
19 \$350.00 will be allowed, and the balance of \$435.00 will be  
20 disallowed.

21 Plaintiffs request \$103.00 for service of the summons and  
22 complaint. See 28 U.S.C. §§ 1920(1) and 1921; LDCR 292(f)(2).  
23 No certificate of service was ever filed in the adversary  
24 proceeding. And even if a certificate of service was filed, the  
25 court notes that Federal Rule of Bankruptcy Procedure 7004(b)  
26 permits service of the summons and complaint by mail. And,  
27 again, this cost is not itemized or documented. So this cost  
28 item of \$103.00 will be disallowed in its entirety.

1 Plaintiffs request \$20.00 for a docket fee. 28 U.S.C. §§  
2 1920(5) and 1923; LDCR 292(f)(4). Plaintiffs provide no  
3 supporting documents for this item. However, the court takes  
4 judicial notice that the docket in this adversary proceeding is  
5 one page, maybe two pages at most. The court also takes judicial  
6 notice that the clerk charges \$.50 per page for reproducing any  
7 document. So the court will allow \$1.00 for docket fees, and the  
8 balance of \$19.00 will be disallowed.

9 Plaintiffs request \$2,428.20 for deposition fees. 28 U.S.C.  
10 § 1920(2) permits taxation of the cost of transcripts  
11 "necessarily obtained for use in the case." See also LDCR  
12 292(f)(3). Although depositions need not actually be used in the  
13 case, there must still be some showing how the transcripts were  
14 necessary for trial. That showing has not been made here. The  
15 transcripts are not identified and no invoices are provided.  
16 Consequently, plaintiffs have not properly itemized this expense  
17 in a way that allows the court to understand the necessity for  
18 the expenses claimed. See Zopatti v. Rancho Dorado Homeowners  
19 Ass'n, 2012 WL 92338 at \*4 (S.D. Cal. January 10, 2012).  
20 Therefore, taxation of this cost is denied, and \$2,428.20 is  
21 disallowed in its entirety.

22 Plaintiffs request \$135.04 for statutory witness fees and  
23 mileage for Vicki Perryman. See 28 U.S.C. § 1821. This cost  
24 will be allowed in the amount of \$135.04.

25 Based on the foregoing,

26 IT IS ORDERED that plaintiffs shall recover costs from  
27 defendant in the total amount of \$486.04.

1 IT IS FURTHER ORDERED that plaintiffs' request for all other  
2 costs not taxed to the defendant as provided in this order are  
3 denied and all other costs requested and not taxed are  
4 disallowed.

5 Dated: May 17, 2016.

6   
7 \_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

**INSTRUCTIONS TO CLERK OF COURT  
SERVICE LIST**

The Clerk of Court is instructed to send the attached document, via the BNC, to the following parties:

Raymond L. Sandelman  
196 Cohasset Road, Suite 225  
Chico CA 95926

Thomas G. Mouzes  
555 Capitol Mall Suite 1500  
Sacramento CA 95814

Mark Gorton  
555 Capitol Mall Suite 1500  
Sacramento CA 95814

STEVEN J. HORNE  
P. O. Box 195  
Chico CA 95927